

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1625 S 900 W • PO Box 30408 • Salt Lake City, Utah • 84130-0408 • (801) 977-6800 • Fax 977-6888
website: www.abc.utah.gov

“SPECIAL USE PERMIT” (PUBLIC SERVICE) APPLICATION CHECKLIST

The items below should be completed and submitted by the **10th of the month** or earlier, so that your application can be processed in a timely manner. All licensing requirements must be fully satisfied in order to complete your application. You will be notified of the next monthly Utah Alcoholic Beverage Control Commission meeting when your application will be considered for issuance of a license.

- 1.____ Completed application form (enclosed).
- 2.____ Ownership entity organizational papers for business:
 - a) if a corporation, submit a copy of articles of incorporation;
 - b) if a partnership, submit a copy of written agreement;
 - c) if a limited liability company, submit a copy of articles of organization.
- 3.____ Criminal history background check information (see application form).
- 4.____ Written consent from either city/town council or county commission, whichever is applicable (form enclosed).
- 5.____ **\$1,000** special use permit cash or corporate surety bond (form enclosed).
- 6.____ Scaled floor plan (8 ½”x11”) of hospitality room premises only, highlighting the areas where alcohol will be stored, sold and consumed and also reflecting distance between room and terminal area used by carrier.
- 7.____ **\$50** application fee (nonrefundable).
- 8.____ **\$200** initial license fee (make checks payable to UDABC).

Enclosed are copies of Utah laws and rules pertaining to Public Service Special Use permits. If you have questions concerning these forms or the application process, please contact our Licensing and Compliance Division at (801) 977-6800.

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
APPLICATION FOR SPECIAL USE PERMIT
(PUBLIC SERVICE)

1. Applicant/Organization: _____

2. Business Name: _____

3. Location: _____
Street City State Zip

4. Mailing Address: _____
Street P O Box City State Zip

5. Business phone: _____ Other phone: _____ Fax: _____

6. Contact person: _____ e-mail: _____

7. Ownership: Check appropriate box and provide the requested information in the space below.

(add additional sheets if necessary).

☐ Applicant is an **individual**: List below information for: (a) Individual

☐ Applicant is a **partnership**: List below information for: (a) All Partners

☐ Applicant is a **corporation**: List below information for: (a) Any Stockholder owning at least 20% of the corporation
(b) All Corporate officers and Directors

☐ Applicant is a **limited liability company (LLC)**:
List below information for: (a) Any members owning at least 20% of the company

TITLE _____ NAME _____ HOME ADDRESS _____

HOME PHONE# _____ DR LIC# _____ SS# _____ DOB _____ %OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ NAME _____ HOME ADDRESS _____

HOME PHONE# _____ DR LIC# _____ SS# _____ DOB _____ %OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ NAME _____ HOME ADDRESS _____

HOME PHONE# _____ DR LIC# _____ SS# _____ DOB _____ %OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ NAME _____ HOME ADDRESS _____

HOME PHONE# _____ DR LIC# _____ SS# _____ DOB _____ %OWNED _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

8. **Criminal History.** The law prohibits any person who has been convicted of a felony under any federal or state law or any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages from being in the alcoholic beverage business. The law also prohibits any person who has been convicted of any crime involving moral turpitude or, on two or more occasions within the last five years, has been convicted of driving under the influence of alcohol, or any drug, or the combination of alcohol and any drug from being in the alcohol business. This proscription also applies to any officers, partners, managers, managing agents, directors, stockholders who hold at least 20% of the total issued and outstanding stock of an applicant corporation, members who own at least 20% of an applicant limited liability company and to any person employed to act in a supervisory or managerial capacity.

Please list *all* criminal offenses *other than minor traffic offenses* of which you or any of the above persons have ever been convicted:

<u>NAME</u>	<u>CRIMINAL OFFENSE</u>	<u>DATE OF CONVICTION</u>
<hr/>		
<hr/>		

In addition, a criminal history background check must be furnished on each person listed above and in subparagraph 7. This may be done as follows:

a. Utah residents: If any person listed has been a **resident of Utah for at least two years**, he/she shall submit a fingerprint card to the DABC and consent to a fingerprint criminal background check by the Utah Bureau of Criminal Identification.

b. Non Residents: Out of state residents or persons who have resided in Utah for less than two years shall submit a fingerprint card to the DABC and consent to a fingerprint criminal background check by the **Federal Bureau of Investigation (F.B.I.)**.

An informed consent and release of liability form is included with this application.

Fingerprint cards are available at law enforcement agencies. You may download the fingerprint card at this web address: <http://www.fbi.gov/hq/cjisd/pdf/fpcardb.pdf>

Submit the form(s) to the DABC with a processing fee of:

- \$15.00 per card for BCI background checks, or
- \$34.25 per card for FBI background checks.

In the case of an undue delay in the processing of an F.B.I. criminal background check, here are the rules and procedures for obtaining a third-party national background check: An application that requires F.B.I. criminal history background report(s) may be included on a commission meeting agenda, and may be considered by the commission for issuance of a license, permit, or package agency if:

- 1). the applicant has completed all requirements to apply for the license, permit, or package agency other than the department receiving the F.B.I. criminal history background report(s);
- 2). the applicant attests in writing that he or she is not aware of any criminal conviction of any person identified in the application that would disqualify the applicant from applying for and holding the license, permit, or package agency;
- 3). the applicant has submitted to the DABC the necessary fingerprint card(s) required for the application and consented to the fingerprint criminal background check(s) by the F.B.I.
- 4). the applicant at the time of application supplies the department with a current criminal history background report conducted by a third-party background check reporting service on any person for which an F.B.I. background check is required; and
- 5). the applicant stipulates in writing that if an F.B.I. report shows a criminal conviction that would disqualify the applicant from holding the license, permit, or package agency, the applicant shall immediately surrender the license, permit, or package agency to the department.

A suggested attestation/stipulation letter that satisfies the above requirements is enclosed.

A third-party national criminal background check can be obtained by;

- searching the yellow pages under Background Screening
- searching the internet under Background Screening or Background Checks

Because the DABC is State Agency, we cannot recommend any one background screening service over another. It is your responsibility however, to obtain the most complete, nationwide, criminal history available for the application process.

9. Have you as an applicant, or any proprietor, partner, managing agent, director, officer, stockholder owning at least 20% corporation stock, or if a limited liability company, any member owning at least 20% of the company, had a state alcoholic beverage license, permit, or agency revoked within the last three years?

☐ YES ☐ NO If YES, please explain: _____

11. Does applicant propose to utilize a “hospitality room” where liquor will be sold or served to persons while in transit? _____ If yes, attach floor plan for such facility showing its location and highlighting the sale, consumption and storage areas and the distance between the room and the terminal area.

12. List total of regularly numbered passengers flights, trains, etc: _____

13. List any other storage locations for alcoholic products: _____

14. By signing below, the applicant attests that:

a) the applicant is at least 21 years of age.

b) consent is granted to representatives of the Alcoholic Beverage Control Department, Commission, State Bureau of Investigation (Bureau of Alcoholic Beverage Law Enforcement), and other law enforcement agencies to be admitted immediately and permitted without hindrance or delay to inspect the entire premises and all records of the permit holder.

c) he/she has read and will abide by the provisions of Section 32A-6, Utah Code and all rules and directives of the Utah Department of Alcoholic Beverage Control; and understands that failure to adhere thereto shall constitute grounds for removal of said permit.

d) the applicant does not and will not discriminate against persons on the basis of race, color, sex, religion, ancestry, or national origin.

e) he/she has read and understands the statements made herein; that execution thereof is done voluntarily and by authorization of said organization, and that any false statement made on this application or any related document is a second degree felony.

15. The undersigned hereby makes application to the Utah Alcoholic Beverage Control Commission for a Special Use Permit (Public Service) and certifies that the information contained herein and attached hereto to be true and correct.

Date: _____

Applicant/owner of business

Authorized signature

Name/title

STATE OF _____

COUNTY OF _____

Subscribed & sworn to before me this _____ day of

_____, _____.

Notary Public

SEAL:

**UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
SPECIAL USE PERMIT (PUBLIC SERVICE)**

LOCAL CONSENT

Date: _____

Utah Department of Alcoholic Beverage Control
Licensing & Compliance Section
1625 S 900 W
PO Box 30408
Salt Lake City, Utah 84130-0408

_____, (City)(Town)(County)

grants its consent to the issuance of a Public Service Special Use permit for _____, a

_____ owned by _____,

and located at _____,

pursuant to the provisions of Utah Code, 32A-6, for the purpose of purchase, storage, sale,

consumption and/or other lawful use of alcoholic products as authorized by the Utah Department of

Alcoholic Beverage Control. The applicant has met all ordinances relating to the issuance of the permit.

Sincerely,

Authorized Signature

Name/Title

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1625 S 900 W • PO Box 30408 • Salt Lake City, UT 84130-0408 • Phone (801) 977-6800 • Fax (801) 977-6889

**“PUBLIC SERVICE BOND”
(SPECIAL USE)**

BOND # _____

KNOW ALL PERSONS BY THESE PRESENTS:

That **Principal**, _____, a public service permittee, doing business as _____, and **Surety**, _____, a corporation organized and existing under the laws of the state of _____ and authorized to do business in Utah, are held and bound unto the Utah Department of Alcoholic Beverage Control in the sum of **\$1,000**, for which payment will be made, we hereby bind ourselves and our representatives, assigns, and successors firmly by these presents.

Dated this _____ day of _____, _____.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above principal has made application to the Utah Alcoholic Beverage Control Commission for a public service permit pursuant to the provisions of 32A-6, Utah Code.

NOW, THEREFORE, if said principal, its officers, agents and employees shall faithfully comply with the provisions of Title 32A, Utah Code, and the rules and directives of the Utah Alcoholic Beverage Control Commission and the Utah Department of Alcoholic Beverage Control, then this bond shall be void; but, if said principal, its officers, agents and employees fail to comply with the provisions of the laws, rules and directives or orders as the commission or department may issue, then this bond shall be in full force and effect and payable to the Utah Department of Alcoholic Beverage Control. This bond shall run for a continuing term effective _____ unless canceled by service of written notice upon the Utah Department of Alcoholic Beverage Control, which cancellation shall be effective 30 days after receipt of such notice; provided however, that no part of this bond shall be withdrawn or canceled while violations, legal actions or proceedings are pending against said permittee / principal.

Surety

Principal / Licensee

Attorney in fact

Authorized signature

{ Corporate Seal }

Name / Title

STATUTORY AFFIDAVIT FOR CORPORATE SURETY

STATE OF: _____

COUNTY OF: _____

On the _____ day of _____, _____, personally appeared before me, _____, who, being by me duly sworn, did say that he / she is the attorney in fact of _____, **Surety**, and that said instrument was signed in behalf of said surety by authority, and acknowledged to me that he / she as such attorney in fact executed the same.

Notary Public Signature & Seal

Note: *Corporate surety's own affidavit also acceptable*

INFORMED CONSENT AND RELEASE OF LIABILITY

PURPOSE: To determine, in accordance with Utah Code 32A-1-702 and 32A-1-703, if an applicant with the Department of Alcoholic Beverage Control has been:

- convicted of a felony under federal or state law;
- convicted of a violation of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, or transportation of an alcoholic beverage;
- convicted of a crime involving moral turpitude;
- convicted on two or more occasions within the previous five years, driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug.

RELEASE

I hereby authorize the Department of Alcoholic Beverage Control (DABC) to investigate my criminal history records to ascertain any and all information which may be pertinent to my qualifications as an applicant with the DABC. The release of any and all information is authorized whether it is of record or not, and I do hereby release all persons, firms, agencies, companies, groups or installations, whomsoever, from any damages of or resulting from, furnishing such information to the DABC. I further agree that a copy of this release will remain in my application file.

Name (please print; last, first, middle initial)

Formerly used last names (please print)

Applicant/ doing business as

Signature

Date

(suggested attestation/stipulation letter to the DABC for a third-party national criminal background check)

Date: _____

To whom it may concern:

I, _____, attest:

- 1. That I have submitted to the DABC the necessary fingerprint card(s) required for the application and consented to the fingerprint criminal background check(s) by the F.B.I.**
- 2. That I am not aware of any criminal conviction that would disqualify me from applying for and holding a Utah Department of Alcoholic Beverage Control license or permit.**

I stipulate that if an F.B.I. report shows a criminal conviction that would disqualify me from holding the license, permit, or package agency, I shall immediately surrender the license, permit, or package agency to the department.

I am enclosing a national criminal history background report from a third party background check reporting service.

Signature

Name/Title

Sales Tax Information for Liquor License Holders

The prices of liquor, wine, and heavy beer at the liquor stores and package agencies will NO LONGER include sales tax. The sales tax will be added at the cash register when members of the general public shop in a liquor store or package agency and bring their purchases to the cash register. License holders (licensees) that make purchases at the cash register will be charged sales tax just like the general public.

Licensees may purchase liquor from the department without paying the sales tax under these two conditions:

1. The licensee must file tax commission form TC-721 with the DABC. A copy of this form is included in this application packet. Once filed, the licensee can buy liquor, wine, and heavy beer exempt from sales tax at any DABC owned and operated state liquor store. If the licensee buys from a local package agency that is a "contracted store" (not owned or operated by the DABC), the licensee has to file form TC-721 with the package agency in order to be able to purchase "sales tax exempt"; *and*
2. The licensee must adhere to the liquor order procedures established by the DABC commission as follows:
 - (a) Commission rule requires that orders must be placed in advance to allow department personnel sufficient time to assemble the order. The order shall include the business name of the licensee, department permit number, and list the products ordered specifying each product by code number and quantity. The order may be telephoned or faxed to the store or agency.
 - (b) The licensee shall allow at least four hours for department personnel to assemble the order for pick-up. When the order is complete, the licensee will be notified by phone and given the total cost of the order. The licensee may pay for the product in cash, company check, cashier's check, or debit card with a PIN.
 - (c) The licensee or the licensee's designee shall examine and sign for the order before it leaves the store, agency or satellite warehouse to verify that the product has been received.
 - (d) Merchandise shall be supplied to the licensee on request when it is available on a first come first serve basis. Discounted items and limited items may, at the discretion of the department, be provided to a licensee on an allocated basis.

The following licensees and permittees qualify to buy tax exempt:

- full-service restaurants
- limited restaurants
- private clubs
- airport lounges
- on-premise banquet licensees
- holders of single event permit, public service permits and educational special use permits that buy for resale
- holders of religious wine permits

Each licensee or permittee will be responsible for collecting the sales tax on the liquor, wine and heavy beer they resell and remitting the tax directly to the State Tax Commission.

	Utah State Tax Commission Exemption Certificate (Sales, Use, Tourism and Motor Vehicle Rental Tax)		TC-721 Rev. 5/06

Name of business or institution claiming exemption (purchaser)			Telephone Number	
Street Address		City	State	ZIP Code
Authorized Signature	Name (please print)		Title	
			Date	
Name of Seller or Supplier: Department of Alcoholic Beverage Control				

The person signing this certificate **MUST** check the applicable box showing the basis for which the exemption is being claimed. Questions should be directed (preferably in writing) to Taxpayer Services, Utah State Tax Commission, 210 N 1950 W, Salt Lake City, UT 84134. Telephone (801) 297-2200, or toll free 1-800-662-4335.

DO NOT SEND THIS CERTIFICATE TO THE TAX COMMISSION
Keep it with your records in case of an audit.

Sales tax account numbers with an "H" prefix are not to be used for tax-free purchases for resale or re-lease.

RESALE OR RE-LEASE

Sales Tax License No. _____

I certify I am a dealer in tangible personal property or services that is for resale or re-lease. If I use or consume any tangible personal property or services I purchase tax free for resale, or if my sales are of food, beverages, dairy products and similar confections dispensed from vending machines (see Rule R865-19S-74), I will report and pay sales tax on the proper cost thereof directly to the Tax Commission on my next regular sales and use tax return.

COMMERCIAL AIRLINES

I certify the food and beverages purchased are by a commercial airline for in-flight consumption; or, any parts or equipment purchased are for use in aircraft operated by common carriers in interstate or foreign commerce.

RELIGIOUS OR CHARITABLE INSTITUTION

Sales Tax Exemption No. N _____

I certify the tangible personal property or services purchased will be used or consumed for essential religious or charitable purposes. This exemption can only be used on purchases totaling \$1,000 or more, unless the sale is pursuant to a contract between the seller and purchaser.

To be valid this certificate must be filled in completely, including a check mark in the proper box.

A sales tax license number is required only where specifically indicated.

Please sign, date and, if applicable, include your license or exemption number.

NOTE TO SELLER: Keep this certificate on file since it must be available for audit review.

NOTE TO PURCHASER: Keep a copy of this certificate for your records. You are responsible to notify the seller of cancellation, modification, or limitation of the exemption you have claimed.

DO NOT SEND THIS CERTIFICATE TO THE TAX COMMISSION

TITLE 32A - ALCOHOLIC BEVERAGE CONTROL ACT

(Updated through May 2008)

Chapter 6 - Special Use Permits

PART 1

GENERAL PROVISIONS

32A-6-101. COMMISSION'S POWER TO ISSUE PERMITS -- LIMITATIONS.

(1) The commission may issue a special use permit for the purchase, storage, sale, use, consumption, or manufacture of alcoholic products for limited purposes specified by this chapter and the rules of the commission. The permit entitles the permittee to purchase, store, sell, use, consume, or manufacture alcoholic products only in quantities and types and for purposes as stated in the permit.

(2) The commission may prescribe by policy, directive, or rule consistent with this title, the general operational requirements of permittees relating to:

- (a) physical facilities;
- (b) conditions of purchase, sale, storage, use, consumption, or manufacture of alcoholic beverages;
- (c) purchase, storage, and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

32A-6-102. APPLICATION AND RENEWAL REQUIREMENTS.

(1) A person seeking a special use permit of any kind under this chapter shall file a written application with the department in a form prescribed by the department. The application shall be accompanied by:

- (a) a nonrefundable application fee if required by any section of this chapter;
- (b) an initial permit fee if required by any section of this chapter, which is refundable if a permit is not granted;
- (c) a one-time special use permit fee if required by any section of this chapter, which is refundable if a permit is not granted;
- (d) a statement of the purpose for which the applicant has applied for the special permit;
- (e) written consent of the local authority;
- (f) a bond, where required by any section of this chapter;
- (g) where required by any section of this chapter, a floor plan of the immediate area within the premises in which the applicant proposes that alcoholic products are stored, used, mixed, sold, or consumed;
- (h) a signed consent form stating that the permittee will permit any authorized representative of the commission, department, or any other law enforcement officer unrestricted right to enter the permittee's premises;
- (i) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the special use permit application are authorized to so act on the behalf of the partnership, corporation, or limited liability company;
- (j) a description of the types of alcoholic product the applicant intends to use under authority of the special use permit; and
- (k) any other information the commission or department may require by rule or policy to allow complete evaluation of the application.

(2)(a) All special use permits expire on December 31 of each year unless otherwise provided on the permit.

(b) Persons desiring to renew a renewable special use permit shall submit a completed renewal application to the department no later than November 30.

(c) Failure to meet the renewal requirements shall result in an automatic forfeiture of the license, effective on the date the existing permit expires.

(d) Renewal applications shall be in a form prescribed by the department.

(3) To ensure compliance with Subsection 32A-6-105(8), the commission may suspend or revoke a special use permit if any special use permittee does not immediately notify the department of any change in:

- (a) ownership of the permittee's business;
- (b) for a corporate owner, the:

- (i) corporate officers or directors; or
- (ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or
- (c) for a limited liability company:
 - (i) managers; or
 - (ii) members owning at least 20% of the limited liability company.

32A-6-103. Qualifications.

- (1) Special use permits may be granted only to the following persons or organizations:
 - (a) a religious wine use permit may be granted to a church or religious organization;
 - (b) an industrial or manufacturing use permit may be granted to a person or organization engaged in an industrial or manufacturing pursuit;
 - (c) a scientific or educational use permit may be granted to a person or organization engaged in a scientific or educational pursuit;
 - (d) a health care facility use permit may be granted to a hospital or health care facility; and
 - (e) a public service permit may be granted to an operator of an airline, railroad, or other public conveyance.
- (2) (a) The commission may not issue a special use permit to any person who has been convicted of:
 - (i) a felony under any federal or state law;
 - (ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic products;
 - (iii) any crime involving moral turpitude; or
 - (iv) on two or more occasions within the five years before the day on which the special use permit is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.
 (b) In the case of a partnership, corporation, or limited liability company the proscription under Subsection (2)(a) applies if any of the following has been convicted of any offense described in Subsection (2)(a):
 - (i) a partner;
 - (ii) a managing agent;
 - (iii) a manager;
 - (iv) an officer;
 - (v) a director;
 - (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation; or
 - (vii) a member who owns at least 20% of an applicant limited liability company.
 (c) The proscription under Subsection (2)(a) applies if any person employed to act in a supervisory or managerial capacity for a special use permittee has been convicted of any offense described in Subsection (2)(a).
- (3) The commission may immediately suspend or revoke a special use permit if after the day on which the special use permit is granted, a person described in Subsection (2)(a), (b), or (c):
 - (a) is found to have been convicted of any offense described in Subsection (2)(a) prior to the permit being granted; or
 - (b) on or after the day on which the permit is granted:
 - (i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or
 - (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and
 - (B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (3)(b)(ii)(A).
- (4) The director may take emergency action by immediately suspending the operation of a special use permit according to the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection (2)(a), (b), or (c):
 - (a) is arrested on a charge described in Subsection (2)(a)(i), (ii), or (iii); or
 - (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and
 - (ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol

and any drug within five years before the day on which the person is arrested on a charge described in Subsection (4)(b)(i).

(5) (a) (i) The commission may not grant a special use permit to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a special use permit to any applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation, or member who owns at least 20% of the applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a special use permit if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted a special use permit if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of a limited liability company that had any type of license, agency, or permit revoked within the last three years.

(6) (a) A minor may not be:

(i) granted a special use permit; or

(ii) employed by a permittee to handle alcoholic beverages.

(b) The commission may not grant a special use permit to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

(7) If any person to whom a permit has been issued under this chapter no longer possesses the qualifications required by this title for obtaining that permit, the commission may suspend or revoke that permit.

32A-6-104. DUTIES OF COMMISSION AND DEPARTMENT BEFORE ISSUING PERMITS.

(1) Before any special use permit is issued by the commission, the department shall conduct an investigation for the purpose of gathering information and making recommendations to the commission as to the issuance of the permit. The information shall be forwarded to the commission to aid in its determination.

(2) Before issuing any special use permit, the commission shall:

(a) determine that the applicant has complied with all basic qualifications and requirements for making application for a permit, as provided by Sections 32A-6-102 and 32A-6-103, and that the application is complete;

(b) consider the applicant's ability to properly utilize the special use permit within the restrictions of this title and the commission rules including, but not limited to, the proposed use of the permit, and the nature and type of organization making use of the permit;

(c) consider the physical characteristics of the premises where alcoholic products are proposed to be stored, used, mixed, or sold, such as the condition of the premises, public visibility, and safety considerations;

(d) consider specific factors or circumstances regarding the specific type of permit sought by the applicant;

(e) approve of the location and equipment utilized by the applicant to distill alcohol for experimental testing purposes or use as a fuel; and

(f) consider any other factors or circumstances it considers necessary.

32A-6-105. OPERATIONAL RESTRICTIONS.

Each person granted a special use permit and the employees and management personnel of the permittee shall abide by the following conditions and requirements. Failure to comply may result in a revocation of the permit, or other disciplinary action taken against individual employees or management personnel. Suspension or revocation of a permit may be done by the commission with or without cause.

(1) Where authorized by the permit, a permittee may purchase and receive non-consumable alcoholic products directly from a manufacturer for industrial, educational, scientific, manufacturing, or health care facility use purposes.

(2) Except as otherwise provided, liquor may not be purchased by any permittee except from state stores or package agencies. Liquor so purchased may be transported by the permittee from the place of purchase to the permittee's premises. All liquor shall be purchased at prices set by the commission.

(3) Alcoholic products may not be stored, used, manufactured, blended, sold, or consumed in any place other than as designated in the permittee's application.

(4) A permittee may not purchase, store, sell, use, consume, or manufacture any alcoholic products for any purpose other than that authorized by the special use permit.

(5) Except as otherwise provided, alcoholic products may not be sold, served, or otherwise furnished to any:

(a) minor;

(b) person actually, apparently, or obviously intoxicated;

(c) known habitual drunkard; or

(d) known interdicted person.

(6) Each permittee shall keep records and accounts, as required by commission rule, of all alcoholic products purchased, manufactured, used, and sold.

(7) A special use permit may not be transferred from one location to another, without prior written approval of the commission.

(8) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to any other person whether for monetary gain or not.

PART 2 PUBLIC SERVICE PERMITS

32A-6-201. APPLICATION AND RENEWAL REQUIREMENTS.

(1) Each application for a public service permit shall, in addition to the requirements of Section 32A-6-102, include:

(a) a nonrefundable \$50 application fee;

(b) a \$200 initial permit fee;

(c) the total of regularly numbered flights, trains, buses, boats, or other types of conveyance for which the applicant plans to use the special use permit;

(d) written consent of the local authority;

(e) a cash or corporate surety bond in the penal sum of \$1,000 payable to the department, which the permittee has procured and must maintain for so long as the permittee continues to operate as a special use permittee;

(f) a floor plan of any room or facility in which the applicant plans to establish a hospitality room where the sale or service of alcoholic beverages is made to persons then in transit, using the host company's airline, railroad, or other public conveyance; and

(g) evidence of proximity of a proposed hospitality room to the arrival and departure area used by persons traveling on the host company's airline, railroad, bus, or other public conveyance.

(2) Each public service permittee shall remit to the department an annual public service permit fee of \$30 for each regularly numbered passenger airplane flight, passenger train, or any other regularly scheduled public conveyance upon which alcoholic beverages are sold or served.

(3)(a) The bond required under Subsection (1) shall be in a form approved by the attorney general, conditioned upon the permittee's faithful compliance with this title and the rules of the commission.

(b) If the surety bond is canceled due to the permittee's negligence a \$300 reinstatement fee may be assessed.

(c) No part of any cash bond so posted may be withdrawn during the period the permit is in effect.

(d) A bond filed by a permittee may be forfeited if the permit is finally revoked.

32A-6-202. OPERATIONAL RESTRICTIONS.

In addition to the restrictions, conditions, and requirements of Section 32A-6-105, each public service permit is subject to the following operating restrictions:

(1)(a) A public service permittee whose public conveyances operate on an interstate basis may purchase alcoholic beverages outside of the state and bring it into the state and sell and serve it to passengers traveling on the permittee's public conveyance for consumption while en route on the conveyance.

(b) A public service permittee whose public conveyances operate solely within the state shall purchase to sell and serve to passengers traveling on the permittee's public conveyance for consumption while en route on the conveyance:

(i) liquor from state stores or package agencies; and

(ii) beer from a local beer wholesaler.

(2) A public service permittee may establish a hospitality room in which alcoholic beverages may be stored, sold, served, and consumed, if:

(a) the room is located within a depot, terminal, or similar facility adjacent to and servicing the permittee's airline, railroad, bus, boat, or other public conveyance;

(b) the room is completely enclosed and the interior is not visible to the public;

(c) the sale or service of alcoholic beverages is made only to persons then in transit using the host company's airline, railroad, bus line, or other public conveyance, and holding a valid boarding pass or similar travel document issued by the host company; and

(d)(i) all liquor is purchased from:

(A) a state store; or

(B) a package agency; and

(ii) beer is purchased from a local licensed beer wholesaler.

(3) Each public service permittee operating a hospitality room shall display in a prominent place in the hospitality room, a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(4) The operation of all hospitality rooms shall be done in accordance with this chapter and rules adopted by the commission.

R81. Alcoholic Beverage Control, Administration.

R81-6. Special Use Permits.

R81-6-1. Application.

An application for a special use permit shall be included in the agenda of the monthly commission meeting for consideration for issuance of a special use permit when the requirements of Sections 32A-6-102 and -103 have been met, and a completed application has been received by the department.

R81-6-2. Warning Sign.

All public service permittees which utilize a hospitality room shall display in a prominent place therein a "warning sign" as defined in R81-1-2.

R81-6-3. Direct Delivery.

Industrial, manufacturing, scientific, educational, and health care special use permittees may purchase alcohol directly from the manufacturer and have it shipped directly to the permittee's address, provided the alcohol is used for industrial, manufacturing, scientific, educational, or health care purposes.

R81-6-4. Public Service Permittee Operating Guidelines.

(1) A public service permittee that operates on an interstate basis may purchase liquor outside of the state and bring it into the state and/or purchase liquor within the state and sell, store and serve it to passengers traveling on the permittee's public conveyance for consumption while en route on the conveyance. However, all liquor utilized within a public service permittee's hospitality room must be purchased from a state liquor store or package agency within this state.

(2) All liquor transported from outside the state to the permittee's storage facility shall be carried in sealed conveyances which may be inspected at any time by the department.

(3) A public service permittee shall keep available and open for audit during regular business hours, complete and accurate records of alcoholic product shipments to and from their storage facility. Records shall be kept for a minimum of three years.

(4) A public service permittee shall allow the department, through its auditors or examiners, to audit all records relating to the storage, sale, consumption and transportation of alcoholic products by the permittee.

TITLE 32A - ALCOHOLIC BEVERAGE CONTROL ACT

(Updated through May 2008)

Chapter 14a - Alcoholic Beverage Liability

32A-14a-101. DEFINITIONS.

As used in this chapter:

- (1) "DEATH OF A THIRD PERSON" includes recovery for all damages, special and general, resulting from such death, except punitive damages.
- (2)(a) "INJURY" includes injury in person, property, or means of support.
- (b) "INJURY" also includes recovery for intangibles such as mental and emotional injuries, loss of affection, and companionship.

32A-14a-102. Liability for injuries and damage resulting from distribution of alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.

- (1) (a) Except as provided in Section **32A-14a-103**, a person described in Subsection (1)(b) is liable for:
 - (i) any and all injury and damage, except punitive damages to:
 - (A) any third person; or
 - (B) the heir, as defined in Section **78B-3-105**, of that third person; or
 - (ii) for the death of a third person.
- (b) A person is liable under Subsection (1)(a) if:
 - (i) the person directly gives, sells, or otherwise provides an alcoholic beverage:
 - (A) to a person described in Subsection (1)(b)(ii); and
 - (B) as part of the commercial sale, storage, service, manufacture, distribution, or consumption of alcoholic products;
 - (ii) those actions cause the intoxication of:
 - (A) any individual under the age of 21 years;
 - (B) any individual who is apparently under the influence of intoxicating alcoholic products or drugs;
 - (C) any individual whom the person furnishing the alcoholic beverage knew or should have known from the circumstances was under the influence of intoxicating alcoholic beverages or products or drugs; or
 - (D) any individual who is a known interdicted person; and
 - (iii) the injury or death described in Subsection (1)(a) results from the intoxication of the individual who is provided the alcoholic beverage.
- (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable for:
 - (i) any and all injury and damage, except punitive damages to:
 - (A) any third person; or
 - (B) the heir, as defined in Section **78B-3-105**, of that third person; or
 - (ii) for the death of the third person.
- (b) A person is liable under Subsection (2)(a) if:
 - (i) that person directly gives or otherwise provides an alcoholic beverage to an individual who the person knows or should have known is under the age of 21 years;
 - (ii) those actions caused the intoxication of the individual provided the alcoholic beverage;
 - (iii) the injury or death described in Subsection (2)(a) results from the intoxication of the individual who is provided the alcoholic beverage; and
 - (iv) the person is not liable under Subsection (1), because the person did not directly give or provide the alcoholic beverage as part of the commercial sale, storage, service, manufacture, distribution, or consumption of alcoholic products.
- (3) Except for a violation of Subsection (2), an employer is liable for the actions of its employees in violation of this chapter.
- (4) A person who suffers an injury under Subsection (1) or (2) has a cause of action against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).
- (5) If a person having rights or liabilities under this chapter dies, the rights or liabilities provided by this chapter survive to or against that person's estate.
- (6) The total amount that may be awarded to any person pursuant to a cause of action for injury and damage under this chapter that arises after January 1, 1998, is limited to \$500,000 and the aggregate

amount which may be awarded to all persons injured as a result of one occurrence is limited to \$1,000,000.

(7) An action based upon a cause of action under this chapter shall be commenced within two years after the date of the injury and damage.

(8) (a) Nothing in this chapter precludes any cause of action or additional recovery against the person causing the injury.

(b) Any cause of action or additional recovery against the person causing the injury and damage, which action is not brought under this chapter, is exempt from the damage cap in Subsection (6).

(c) Any cause of action brought under this chapter is exempt from Sections **78B-5-817** through **78B-5-823**.

(9) This section does not apply to a business licensed under Chapter 10, Part 1, General Provisions, to sell beer at retail only for off-premise consumption.

32A-14a-103. EMPLOYEE PROTECTED IN EXERCISING JUDGMENT.

(1) An employer may not sanction or terminate the employment of an employee of a restaurant, airport lounge, private club, on-premise beer retailer, or any other establishment serving alcoholic beverages as a result of the employee having exercised the employee's independent judgment to refuse to sell alcoholic beverages to any person the employee considers to meet one or more of the conditions described in Subsection 32A-14a-102(1).

(2) Any employer who terminates an employee or imposes sanctions on the employee contrary to this section is considered to have discriminated against that employee and is subject to the conditions and penalties set forth in Title 34A, Chapter 5, Utah Antidiscrimination Act.

32A-14a-104. GOVERNMENTAL IMMUNITY.

No provision of this title creates any civil liability on the part of the state or its agencies and employees, the commission, the department, or any political subdivision arising out of their activities in regulating, controlling, authorizing, or otherwise being involved in the sale or other distribution of alcoholic beverages.

32A-14a-105. ACTION FOR CONTRIBUTION BY PROVIDER OF ALCOHOLIC BEVERAGES.

(1)(a) Except as provided in Subsections (2) and (3), a person, as defined under Subsection 32A-14a-102(1), (2), or (3), against whom an award has been made under this chapter, may bring a separate cause of action for contribution against any person causing the injury and damage.

(b) The maximum amount for which any person causing the injury and damage may be liable to any person seeking contribution is that percentage or proportion of the damages equivalent to the percentage or proportion of fault attributed to that person causing the injury and damage.

(2) This action for contribution under this section may not be brought against:

(a) any person entitled to recovery as described in Subsection 32A-14a-102(1)(a)(i) or (ii); or

(b) any person entitled to recover as described in Subsection 32A-14a-102(2)(a)(i) or (ii).

(3) An action for contribution under this section may not diminish the amount of recovery for injury or damages awarded and received to any person entitled to recover as described in Subsection 32A-14a-102(1)(a)(i) or (ii) or 32A-14a-102(2)(a)(i) or (ii):

(a) in a cause of action brought under this chapter; or

(b) in a separate cause of action for injury and damage that is not brought under this chapter.

TITLE 32A- ALCOHOLIC BEVERAGE CONTROL ACT

PART 4

ALCOHOL TRAINING AND EDUCATION

32A-1-401. ALCOHOL TRAINING AND EDUCATION -- REVOCATION, SUSPENSION OR NON-RENEWAL OF LICENSES.

(1) The commission may suspend, revoke, or not renew the license of any licensee licensed by the commission if any of the following individuals, as defined in Section 62A-15-401, fail to complete an alcohol training and education seminar required in Section 62A-15-401:

(a) an individual who manages operations at the premises of the licensee engaged in the retail sale of alcoholic beverages for consumption on the premises of the licensee;

(b) an individual who supervises the serving of alcoholic beverages to a customer for consumption on the premises of the licensee; or

(c) an individual who serves alcoholic beverages to a customer for consumption on the premises of the licensee.

(2) A city, town, or county in which an establishment conducts its business may suspend, revoke, or not renew the business license of the establishment if any individual described in Subsection (1) fails to complete an alcohol training and education seminar required in Section 62A-15-401.

R81. Alcoholic Beverage Control, Administration.

R81-1-12. Alcohol Training and Education Seminar.

(1) The alcohol training and education seminar, as described in Section 62A-15-401, shall be completed by every individual of every new and renewing licensee under title 32A who:

(a) is employed to sell or furnish alcoholic beverages to the public within the scope of his employment for consumption on the premises;

(b) is employed to manage or supervise the service of alcoholic beverages; or

(c) holds an ownership interest in an on-premise licensed establishment and performs the duties of a manager, supervisor, or server of alcoholic beverages.

(2) Persons described in subsection 1(a) and (b) must complete the training within 30 days of commencing employment. Persons described in subsection 1(c) must complete the training within 30 days of engaging in the duties described in subsection 1(a) and (b).

(3) Each licensee shall maintain current records on each individual indicating:

(a) date of hire, and

(b) date of completion of training.

(4) The seminar shall include the following subjects in the curriculum and training:

(a) alcohol as a drug and its effect on the body and behavior;

(b) recognizing the problem drinker;

(c) an overview of state alcohol laws;

(d) dealing with problem customers; and

(e) alternate means of transportation to get a customer safely home.

(5) Persons required to complete the seminar shall pay a fee to the seminar provider.

(6) The seminar is administered by the Division of Substance Abuse of the Utah Department of Human Services.

(7) Persons who are not in compliance with subsection (2) may not:

(a) serve or supervise the serving of alcoholic beverages to a customer for consumption on the premises of a licensee; or

(b) engage in any activity that would constitute managing operations at the premises of a licensee.



U.S. DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

REMINDER
Retailers Of Beverage Alcohol Products

If you sell beverage alcohol as part of your business, you must pay an annual special occupational tax. Beverage alcohol means distilled spirits, wine, beer, mixed drinks, and beer or wine coolers. This tax applies to persons who sell on or off premises or who provide alcoholic beverages as part of the cost of an item or service. You may owe this tax even when you will not make a profit or when you are exempt from income tax.

Detailed information, forms, and taxpayer assistance, is available at web site of the ALCOHOL AND TOBACCO TAX AND TRADE BUREAU:
<http://www.ttb.gov/alcohol/retailers/index.htm>

You must file and pay the special occupational tax on form ATF F 5630.5. You can print or download ATF Form 5630.5 or you can request a packet with the form and instructions by calling the Alcohol and Tobacco Tax and Trade Bureau's toll-free number at 800-937-8864 or local to 513-684-2979.

(REVISED APRIL 22, 2005)

Suspension of Special Occupational Tax Payments

Washington, D.C. - On October 22, 2004, H.R. 4520, the American Job Creations Act of 2004, was signed into law. As part of this act, the payment of Special Occupational Tax (SOT) will be suspended for certain businesses.

Although most taxpayers no longer will have to pay this tax during the suspension period, others will still be required to continue paying, and all taxpayers must still file the SOT Tax Return (TTB Form 5630.5) annually with the Alcohol and Tobacco Tax and Trade Bureau (TTB).

Currently, SOT is due by July 1 of every year for most businesses engaged in alcohol and tobacco industries at the manufacturing, wholesaling/importing, and retailing levels (tobacco retailers are not included).

With this new law, most SOT taxpayers will no longer be required to pay this tax for the period beginning July 1, 2005. The suspension of the SOT requirement will last three years and ends on June 30, 2008. No SOT is due for operations conducted between these dates.

Payment of SOT will no longer be required from producers, wholesalers, importers, and retailers of alcohol beverages, as well as manufacturers of non-beverage products.

SOT will remain due by Tax-Free Alcohol Users and Specially Denatured Alcohol Users and Dealers as well as Tobacco Products Manufacturers and Tobacco Export Warehouse Proprietors.

For all industry members, SOT remains due and payable for all persons in business and any new business until July 1, 2005. Any liabilities up until that date will still be due, even during the suspension period.

If you have questions regarding the suspension of SOT, please contact TTB's National Revenue Center at 1-(800) 937-8864 or (513) 684-2979.